

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 23-CV-80789-ROSENBERG

MARIO SALVATORE DOMEN PECORARO,

Plaintiff,

v.

SYNOVUS BANK et al.,

Defendants.

ORDER ADOPTING MAGISTRATE’S REPORT AND RECOMMENDATION

This matter is before the Court upon Defendant Experian Information Solutions, Inc.’s (“EIS”) Motion to Compel Arbitration [DE 42] which was previously referred to the Magistrate Judge for a Report and Recommendation. On December 6, 2023, the Magistrate Judge issued a Report and Recommendation recommending that the Motion be granted. DE 55. On December 13, 2023, Plaintiff filed an Objection. DE 58. Defendant EIS filed a Response to Plaintiff’s Objection on December 18, 2023. DE 60. The Court has reviewed the Report and Recommendation, Plaintiff’s Objection, Defendant EIS’s Response, and the record and is otherwise fully advised in the premises.

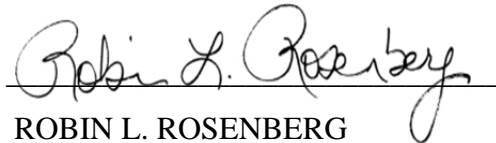
Upon review, the Court finds Judge Reinhart’s recommendations to be well-reasoned and correct, and the Court agrees with the factual recitation and the analysis in the Report and Recommendation. The Court is unpersuaded by Plaintiff’s objections that Judge Reinhart failed to use the proper legal standard and that Experian failed to prove formation of a contract requiring arbitration. DE 58. The Williams Affidavit is competent evidence to show that Plaintiff accepted the Terms of Service Agreements—and the relevant arbitration clause—that

were in effect when he enrolled in CreditWorks. Mr. Williams had personal knowledge of the contents of the Terms of Service Agreements at the time of Plaintiff's enrollment, and every enrollee had to accept those terms before using the software. Additionally, no authority supports Plaintiff's contention that the Affidavit must be notarized. As EIS presented competent evidence to show that Plaintiff accepted the Terms of Service Agreements, the burden properly shifted to Plaintiff to present contrary evidence. Plaintiff provided no such evidence. Therefore, Defendant EIS's Motion should be granted for the reasons set forth in the Report and Recommendation.

It is thereby **ORDERED AND ADJUDGED** as follows:

1. The Magistrate Judge's Report and Recommendation [DE 55] is **ADOPTED**.
2. Defendant EIS's Motion to Compel Arbitration [DE 42] is **GRANTED**. The parties are directed to proceed with arbitration.
3. Pursuant to 9 U.S.C. § 3, this case is **STAYED** pending the completion of arbitration proceedings. Either party may file a notice on the docket informing the Court that the stay in this case should be lifted.
4. All pending motions are **DENIED AS MOOT** and all deadlines are **TERMINATED**.
5. The Clerk of Court is directed to **CLOSE THIS CASE FOR STATISTICAL PURPOSES** for the duration of the stay; this closure shall not affect the merits of any party's claims.

DONE and ORDERED in Chambers, West Palm Beach, Florida, this 16th day of January, 2024.


ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE

Copies furnished to Counsel of Record